



17.12 03-04-02 0300

1133279-0004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Cottone et al. :  
Serial No.: 09/862,690 : Examiner: To be assigned  
Filed: May 22, 2001 : Group Art Unit: 3738  
Title: SELF-EXPANDING STENT

Express Mail Label: EL 608305203 US
I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 in an envelope addressed to: the Assistant Commissioner for Patents and Trademarks, Washington, D.C. 20231, on March 1, 2002.
<u>Michael K. Jones</u> Name of person mailing paper or fee
<u>Michael K. Jones</u> Signature of person mailing paper or fee

**REPLY TO NOTICE OF INCOMPLETE REPLY**

BOX MISSING PARTS  
Assistant Commissioner for Patents  
Washington, D.C. 20231

ATTENTION: H. Seyoum/OIPE

Sir:

Responsive to the Notice of Incomplete Reply (Nonprovisional), mailed February 20, 2002, enclosed herewith are eleven (11) sheets of formal drawings containing Figures 1 through 11 to replace the drawings, filed May 22, 2001, in the referenced application. The Figures submitted herewith correct the drawings as noted in the Notice of Incomplete Reply and, therefore, the formal drawings are in compliance with 37 C.F.R. §1.84. No new matter has been introduced by the new drawings. A copy of the Notice of Incomplete Reply (Nonprovisional) is attached to this communication.

A Notice to File Missing Parts of Nonprovisional Application was mailed on July 19, 2001 (hereinafter the "Notice"). The Notice required that Applicants submit a signed

Declaration and substitute drawings in compliance with 37 C.F.R. § 1.84. The Notice set a two (2) month period for reply. Extensions of time could be obtained under the provisions of 37 C.F.R. §1.136(a).

On November 14, 2001, Applicants filed a response to the Notice and submitted the signed Declaration together with a check in the amount of \$65 to pay the surcharge fee under 37 C.F.R. §1.16(e). A two-month extension of time was secured as a part of Applicants' response to the Notice. However, a set of substitute drawings were not included as part of the response filed November 14, 2001.

Even though Applicants' response to the Notice was mailed on November 14, 2001, the return postcard included with the response was not stamped by the Office of Initial Patent Examination ("OIPE") until January 3, 2002, i.e., almost two months after the mail date of Applicants' response. A copy of the stamped return postcard is attached to and made part of this communication. This delay is likely to be attributable to the disruption of Office incoming mail service due to the anthrax situation occurring during the relevant period of November 2002.

On February 20, 2002, a Notice of Incomplete Reply (Nonprovisional) was mailed to Applicants. Applicants' agent did not receive the Notice of Incomplete Reply until February 28, 2002. The Notice of Incomplete Reply acknowledges receipt of Applicants' response to the Notice and requires submission of the substitute drawings which were not included in the Applicants' response, mailed November 14, 2001. Furthermore, the Notice of Incomplete Reply provides that the period of reply remains the same as set forth in the Notice. Thus, the period for reply to the Notice is two (2) months from the mail date of July 17, 2001 plus five (5) one-month extensions of time under the provisions of 37 C.F.R. §1.136(a). Accordingly, the period of reply to the Notice expired on February 17, 2002. The Notice of Incomplete Reply was mailed February 20, 2002.

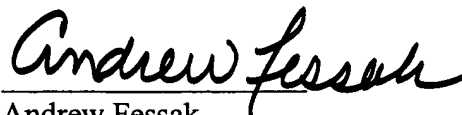
Applicants respectfully submit that they have been unfairly prejudiced by the delay caused by the disruption in the Office incoming mail service. Although Applicants' mailed a response to the Notice on November 14, 2002, it was not processed by the OIPE until January 3, 2002. Had Applicants' response of November 14, 2002 been timely received and processed by the OIPE, it is reasonable to expect that the OIPE would have sent the Notice of Incomplete Reply in a more timely fashion. In such a case, Applicants would have had the opportunity to respond before the expiration date of February 17, 2002.

In view of the totality of circumstances, fairness requires that the Office accept the accompanying substitute drawings and consider the submission to have been timely made within the period set forth in the Notice.

The Commissioner is hereby authorized to charge any additional fee which may be required with this paper to Deposit Account No. 23-1703.

Dated: March 1, 2002

Respectfully submitted,



Andrew Fessak  
Reg. No. 48,528  
(212) 819-8437

Customer No. 007470

Attachments: 11 sheets of figures  
Notice of Incomplete Reply (Nonprovisional) 1 page  
Return postcard bearing OIPE stamp

## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/862,690	05/22/2001	Robert John Cottone, JR.	1133279-0004

CONFIRMATION NO. 8698

007470  
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1155 AVENUE OF THE AMERICAS  
NEW YORK, NY 10036

## FORMALITIES LETTER



\*OC000000007501422\*

Date Mailed: 02/20/2002

## NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

*Filing Date Granted*

The U.S. Patent and Trademark Office has received your reply on 01/03/2002 to the Notice to File Missing Parts (Notice) mailed 07/19/2001 and it has been entered into the nonprovisional application. The reply, however, does not include the following items required in the Notice.

The period of reply remains as set forth in the Notice. You may, however, obtain EXTENSIONS OF TIME under the provisions of 37 CFR 1.136 (a) accompanied by the appropriate fee (37 CFR 1.17(a)).

A complete reply must be timely filed to prevent ABANDONMENT of the above-identified application.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);

*A copy of this notice **MUST** be returned with the reply.*

*L. Seymour*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE